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Arizona Corporation Commission

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Attorneys for Sierra Club – Grand Canyon Chapter

BEFORE THE
ARIZONA POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE

In the matter of the Application of Southern)
California Edison Company and its assignees)
in conformance with the requirements of)
Arizona Revised Statutes Sections 40-360.03)
and 40-360.06 for a certificate of)
environmental compatibility authorizing)
construction of a 500k alternating current)
transmission line and related facilities in)
Maricopa and La Paz Counties in Arizona)
originating at the Harquahala Switchyard west)
of Phoenix, Arizona and terminating at the)
Devers Substation in Riverside County,)
California.)

Case No. L-00000A-06-0295-00130

SIERRA CLUB'S RESPONSE TO
SOUTHERN CALIFORNIA EDISON'S
MOTION

The Sierra Club, Grand Canyon Chapter, submits the following response to the request
by Southern California Edison Company ("SCE") for the issuance of a finding that the
construction of 13 double circuit towers built as part of the Devers to Palo Verde No. 1
transmission line ("DVP1") was either consistent with ACC Decision No. 51170 or was not a
substantial deviation from that Decision. SCE also requests that if the Commission determines
that the construction of the 13 double circuit towers was a substantial deviation that, pursuant to
A.R.S. § 40-252, the Commission amend the Decision to authorize the 13 double circuit towers.

1 **I. CONSTRUCTION OF THE 13 DOUBLE CIRCUIT TOWERS WAS A**
2 **SUBSTANTIAL DEVIATION FROM THE COMMISSION'S DECISION.**

3 The matter originated when the Chair of the Arizona Power Plant and Transmission Line
4 Siting Committee ("Siting Committee") sent an electronic message to the parties in the current
5 Siting Committee proceeding on SCE's application for a second transmission line from Devers
6 to Palo Verde. In that message, the Chair sought the parties' positions regarding SCE's
7 construction of 13 double circuit towers in the Copper Bottom Pass and whether appropriate
8 authorization existed for that construction in light of the fact that the Certificate of
9 Environmental Compatibility ("CEC") authorizing the construction of the line specifically
10 references a "500 kv single circuit transmission line system."

11 SCE takes the position that the construction of the 13 double circuit lines through Copper
12 Bottom Pass was not a substantial change and, therefore, did not require additional Siting
13 Committee or Commission approval. The Company characterizes the construction of the 13
14 towers as a "minor change" that constitutes only 3% of the total number of towers constructed
15 pursuant to the previous CEC for DPV1.

17 SCE's analysis presents an unworkable framework for determining whether construction
18 of the towers constitutes a substantial change or deviation from the CEC. Under SCE's standard,
19 it would be up to the Company to determine how many towers that deviate from the CEC it
20 could construct. If, in the Company's view, 3 % is not substantial then what is? Neither SCE
21 nor any other company should be allowed to unilaterally determine that it can deviate from a
22 CEC on an important matter such as the towers themselves. That is why the statute requires a
23 description of the facilities to be constructed. A.R.S. § 40-360.03. As a consequence,
24 applications for CECs routinely contain detailed information regarding facilities like towers
25 including their height, width and graphic representations.

1 Additionally, the 13 towers at issue in this case span the entire length of an
2 environmentally sensitive area. Double circuit towers are significantly larger than single circuit
3 towers and, according to the testimony in the pending case, are more than twice as expensive to
4 install. See attached Exhibits 6-1 and 6-3 from SCE's pending application.

5 The fact that the Bureau of Land Management ("BLM") is the landowner and requested
6 the change is of no consequence. If it were, then there would be no need to confer statutory
7 party status on environmental groups like the Sierra Club that routinely evaluate the decisions of
8 agencies like BLM.

9 The Whispering Ranch Decision to which SCE refers recognizes that substantial changes
10 unilaterally undertaken by applicants without appropriate authorization from the Siting
11 Committee "undermines the very foundations of the Siting Act." Decision No. 58793 at 33.
12 Such action "deprives the Committee and, ultimately, the Commission of their statutory powers."
13 *Id.* The purpose clause of the Siting Act calls for the Siting Committee, and not the utility, to
14 decide "whether the change requires reconsideration of the route previously selected." *Id.*
15 Allowing the applicant to make such decisions "would render the Siting Act virtually
16 meaningless." *Id.* at 23. An applicant could propose a "very environmentally-innocuous project
17 and, after receiving a CEC, modify its plans to suit itself." *Id.*

18 Therefore, the issue is not whether SCE made a good or bad decision to construct the 13
19 double circuit towers in Copper Bottom Pass. The issue is whether it is SCE that should make
20 that decision or the Siting Committee. In this case, the decision to construct single circuit or
21 double circuit towers is obviously one for the Siting Committee to make, not the applicant. Any
22 other decision would render the Siting Committee's authority a nullity.
23
24
25

1 **II. SCE MUST OBTAIN APPROPRIATE AUTHORIZATION FROM**
2 **THE SITING COMMITTEE.**

3 Arizona statutes are clear that every utility planning to construct a plant or transmission
4 line must first file an application for a CEC and that no utility may construct a plant or
5 transmission line until it has received a CEC from the Siting Committee. A.R.S. § 40-360.03;
6 A.R.S. § 40-360.07(A). In this case, SCE never obtained the appropriate authorization for
7 construction of the 13 double circuit towers. As a result, it must file an application with the
8 Commission. That application must then be referred by the Commission to the Chairman of the
9 Siting Committee for the Committee's review and decision. A.R.S. § 40-360.03.

10 SCE argues that the Commission can simply ratify SCE's unilateral action to construct
11 the double circuit towers by amending the previous CEC pursuant to A.R.S. § 40-252. However,
12 A.R.S. § 40-252 cannot be used to preempt the Siting Committee's statutory authority to review
13 applications for CECs in the first instance. SCE does not have a CEC to construct double circuit
14 towers and it needs to obtain one first from the Siting Committee. The Commission cannot use
15 A.R.S. § 40-252 to circumvent the clear statutory authority of the Siting Committee. It is
16 without jurisdiction to do so.

17
18 To hold otherwise means that the Commission could assume for itself the duties that are
19 statutorily assigned to the Siting Committee. It also means that if the Commission can use
20 A.R.S. § 40-252 to revisit final decisions involving the siting of plants or transmission lines, then
21 any party can move to revisit those decisions at any time. In this case, that means that those
22 decisions could be revisited even after the facilities (whether they be a power plant or a
23 transmission line) have been constructed. At some point, Siting Committee decisions and
24 Commission review of those decisions must become final and incapable of being reopened years
25 later for whatever reason.

1 SCE's remedy in this case is to file a new application with the Commission for approval
2 of the double circuit towers. That application should then be processed by the Siting Committee
3 and its decision subject to review by the Commission. Although SCE is in a hurry to have the
4 Commission ratify a decision that the Siting Committee and Commission should have made in
5 the first instance, that is no reason to abandon the statutory process that governs the construction
6 of power plants and transmission lines.

7
8 RESPECTFULLY SUBMITTED this 21st day of July, 2006.

9 ARIZONA CENTER FOR LAW IN
10 THE PUBLIC INTEREST

11 By 

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16 Canyon Chapter

17 ORIGINAL and 13 COPIES of
18 the foregoing filed this 21st day
19 of July, 2006, with:

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24 COPY of the foregoing
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15 July, 2006 to:

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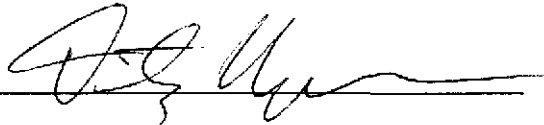
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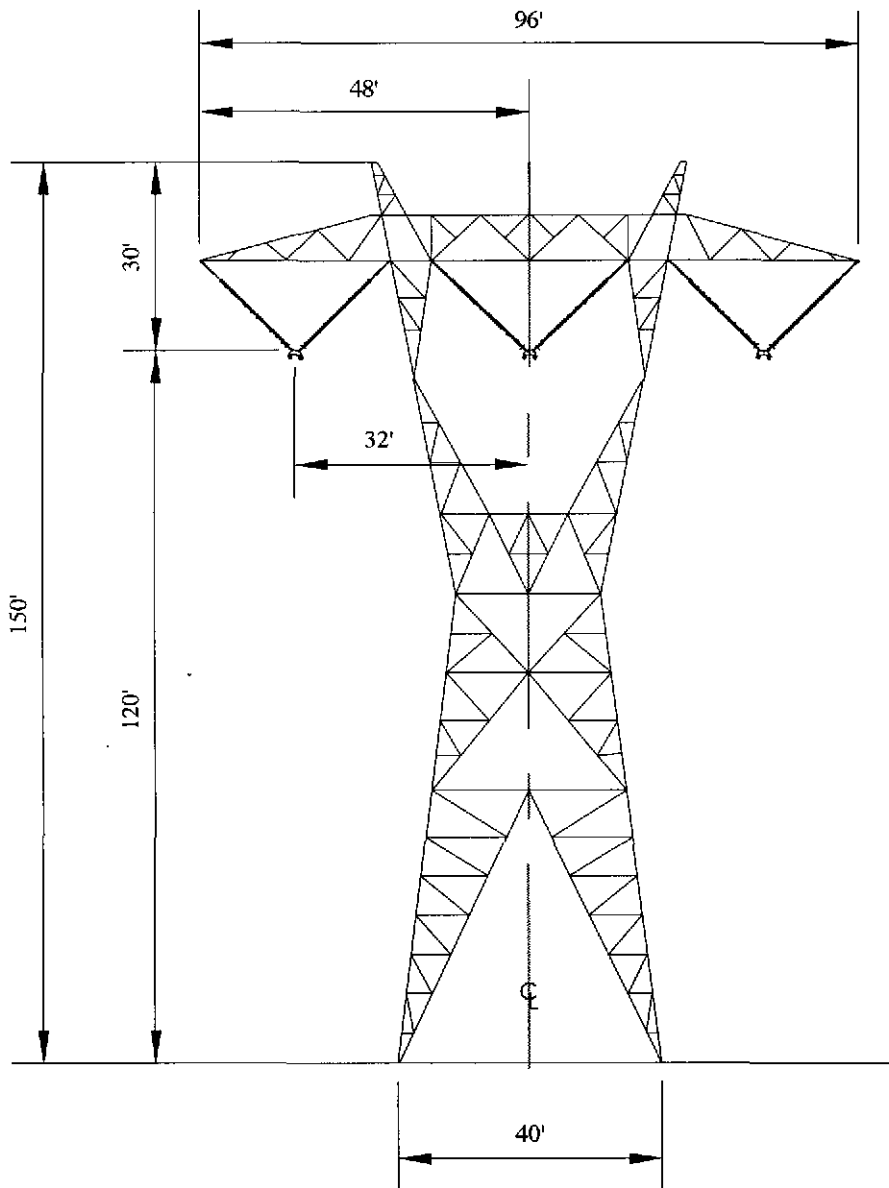
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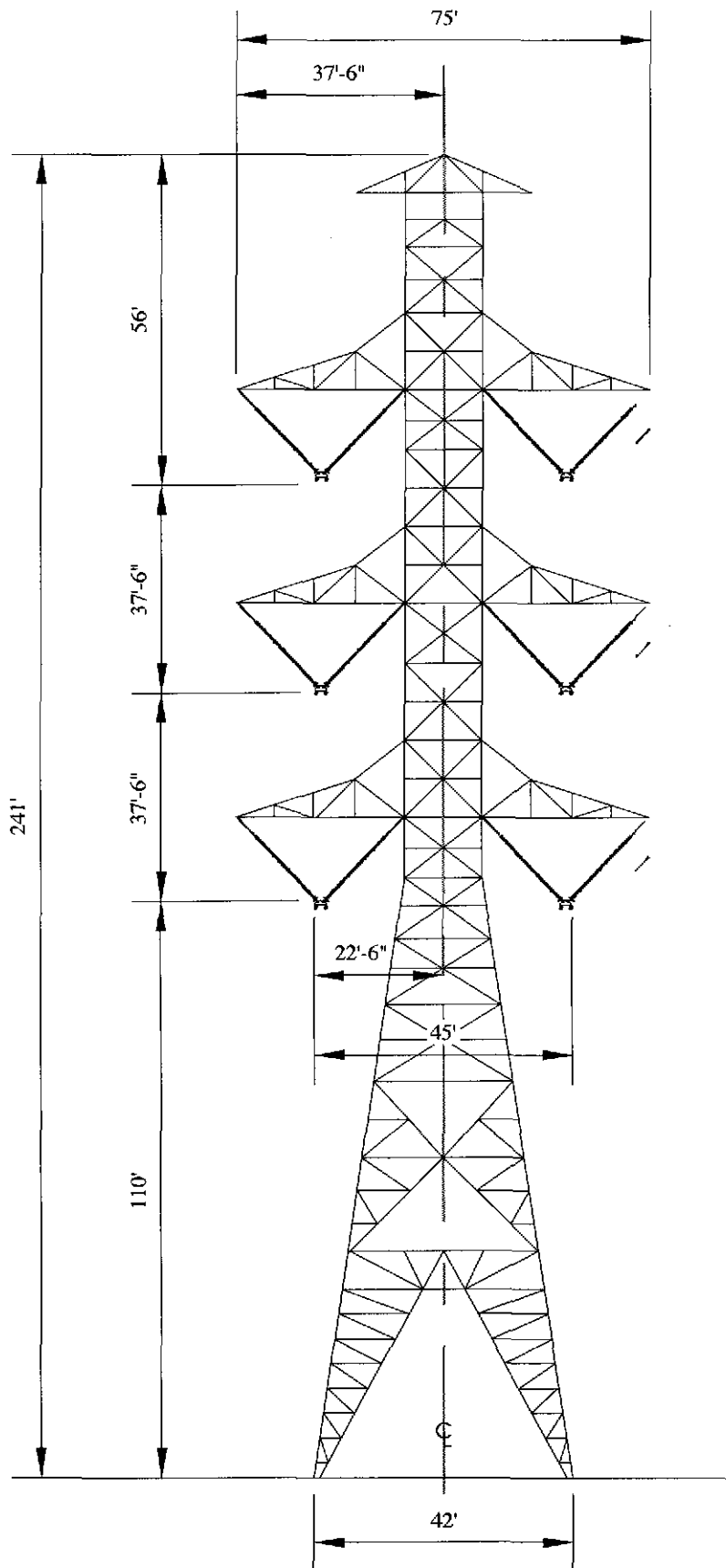
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7 COPY of the foregoing also provided
8 Electronically to all intervenors in
9 Docket No.: L-00000A-06-0295-00130
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A handwritten signature in black ink, appearing to read "Ernest Johnson", is written over a horizontal line.



Note:
Dimensions are approximate and may vary with site conditions.

Exhibit G-1
Proposed 500kV Single-Circuit
Lattice Steel Tower



Note:
Dimensions are approximate and may vary with site conditions.

Exhibit G-3
Existing 500kV Double-Circuit
Lattice Steel Tower